

APPEAL NO. 031500  
FILED JULY 30, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 12, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and that the claimant had disability from November 14, 2002, through the date of the hearing. The appellant (carrier) appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The carrier also disagrees, in part, with the hearing officer's Statement of the Evidence pertaining to the claimant's job duties and whether the alleged injury was a repetitive type injury. The claimant responded, urging affirmance.

DECISION

Affirmed.

The carrier disagrees, in part, with the hearing officer's summarization of the claimant's job duties as a dishwasher and a busboy. A review of the record reflects that the hearing officer summarized the facts based on the claimant's testimony and evidence presented at the hearing. We find that there is sufficient evidence to support the hearing officer's summarization of the claimant's job duties in the Statement of the Evidence.

The carrier disagrees with the hearing officer's comment that the "[c]arrier relied heavily, and erroneously, on the factor that the Claimant was saying he had a repetitive trauma injury [sic] when the disputed issue was a single-incident injury [sic]." We note that at the hearing, the carrier argued that the claimant's testimony regarding his alleged injury appeared to be a repetitive type injury, rather than a specific injury. The hearing officer considered the carrier's argument and cited an Appeals Panel decision addressing the carrier's contentions.

Injury and disability are questions of fact for the hearing officer to resolve. There was conflicting evidence presented on the disputed issues of injury and disability. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex.

Civ. App.-Fort Worth 1947, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing officer.

The carrier asserts that the hearing officer failed to consider a medical report from Dr. H that contradicts the claimant's assertion of an alleged injury. The hearing officer noted in the Statement of the Evidence that "[e]ven though not all the evidence presented was discussed, it was considered." We note that the hearing officer is not required to detail all of the evidence in the decision and order. See Texas Workers' Compensation Commission Appeal No. 93164, decided April 19, 1993. Nothing in our review indicates that the carrier's evidence was not fully considered by the hearing officer.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **NATIONAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Veronica Lopez-Ruberto  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge